



# CONSUMER SATELLITE COALITION

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March 4, 1993

EX PARTE OR LATE FILED

Office of the Secretary  
Federal Communications Commission  
1919 M Street NW  
Washington, D.C. 20554

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MAR 10 1993

The Honorable Donna R. Searcy, Secretary;

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

On behalf of the Home Satellite Dish consumers, the Consumer Satellite Coalition (CSC) respectfully requests that these additional comments be considered along with its comments and reply comments in this NOI FCC Docket No. 92-234.

The CSC files these additional comments on an important development which took place shortly after the deadline in this proceeding yet which is quite relevant to the issues raised here in the NOI.

Attached is an original and nine copies of the CSC additional comments to be distributed so that each commissioner may have a personal copy.

Respectfully;

Suzanne Baechler  
CSC Founder and  
Legislative Director

ENCL: Additional Comments  
Original plus nine

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EX PARTE OR LATE FILED

MAR 10 1993

BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Federal Communications Commission

Washington, D.C.

In the Matter of

Inquiry into Encryption Technology  
for Satellite Cable Programming

FCC Docket No. 92-234

ADDITIONAL COMMENTS

The Consumer Satellite Coalition (CSC) files these additional comments on an important development which took place shortly after the deadline in this proceeding, yet which is quite relevant to the issues raised here. For this reason, CSC respectfully requests that this submission be considered along with its comments and reply comments in this docket.

The recent withdrawal of Titan Satellite Systems, which is the last potential Home Satellite Dish (HSD) decoder competitor to General Instruments Corporation (GIC), has truly brought the TVRO consumer marketplace to its knees.

As Titan explains in the attached letter, the refusal of major programmers to sign contracts with Titan has made it necessary to cancel its initial production run. "In good faith we cannot sell a product to customers, even though that product is less expensive and more secure, if the product cannot be authorized for a competitive package of subscription services," Titan explains in the enclosed letter dated February 18, 1993.

What has happened to Titan is consistent with the information that has been supplied by the CSC to the Commission in its comments in this proceeding and in its 1991 PETITION for INQUIRY. All potential HSD encryption competitors have been unable to compete with GIC (See Titan letter and Satellite Business article attached herein and DecTec Reply to NOI in PP Docket No. 920234.) Titan has now joined the ranks of the defeated, which include Oak Communications, Uniden, Leitch and DecTec International. Not only has GIC refused to share the decoder authorization center but there is collusion among GIC and the major cable programmers, including HBO and SHOWTIME.

This development merits the closest scrutiny. Collusive efforts to block competition in the HSD decoder market place reflect the need for Congress and the FCC to protect the public interest by enforcing the antitrust laws, adopting a standard decoder interface and designing new policies that effectively mandate competition.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Suzanne Baechler", followed by the date "3/4/93".

Suzanne Baechler, founder and Legislative Director  
Consumer Satellite Coalition  
Route 4 Box 169  
Macon, Missouri 63552  
March, 1993

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MAR 10 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY



February 18, 1993

Dear ,

Since its formation just eight months ago, Titan Satellite Systems Corporation has achieved a number of unprecedented breakthroughs to benefit the long-term growth of the home satellite television industry. These breakthroughs were achieved in our effort to bring choice in the last uncompetitive, monopolistic area of the market - the descrambler segment. Those achievements include, among others, the following:

- (1) The Linkabit Smart Card System (LSCS™) development is essentially complete, and we are prepared to begin volume production of consumer descrambler modules within just a few weeks. The LSCS™ design includes the implementation of a proven, highly secure smart card to provide timely, inexpensive security enhancements;
- (2) the Titan Authorization Center (TAC) is operational;
- (3) the Message Processing System (MPS) hardware for installation at the programmers' uplink sites is in production;
- (4) we have received the first shipment of pre-production level consumer descrambler modules;
- (5) we have been field testing the system for several weeks and have received confirmation from a variety of programmers to expand this field testing program to include at least eighteen additional program feeds;
- (6) we have also begun the business system interfacing between the industry back offices and the TAC, and
- (7) we have the nationwide telephone network in place to support this interface;
- (8) the VSAT satellite link for transmission of the TAC authorization channel is operational;
- (9) the VSAT equipment necessary to receive this transmission at each uplink facility is in stock;
- (10) we are nearing the completion of our customer support and product repair system, including the servicing and tracking of in and out of warranty modules and smart card replacements and upgrades;
- (11) most of the industry's major IRD manufacturers and distributors have signed agreements with Titan Satellite Systems Corporation, including contingent purchase orders for 100,000 consumer descrambler modules;

- (12) we have begun discussions with suppliers of digital video compression technology so as to position ourselves for the advent of digital television, including high-powered DBS; and
- (13) Titan Satellite Systems Corporation demonstrated our working system during the January SBCA industry trade show in San Diego.

In short, we are ready to enter the market during the next few weeks.

Our joint venture partners formed this corporation with a clear vision of what business issues faced the enterprise. We have known from the outset that we must prove the feasibility of our system and its compatibility within the Videocipher technology umbrella, the security of the technology we proposed to introduce and our commitment to support the end of a monopoly in the descrambler arena.

At considerable financial risk, we proceeded based on the clear statement from the industry -- whether manufacturers, distributors, dealers, programmers, program distributors or others -- that competition was unanimously sought in the descrambler market. This view was expressed most strongly in the programming community that had suffered the most significant financial loss as piracy of the VCI system continued unabated for six years.

The joint venture partners and the industry have known since our formation that after "clearing" the technical issues we would face only one issue -- the signing of contracts with today's cable/satellite programmers. To facilitate such agreements, we proposed contracts that included legal indemnification as well as lucrative economic packages. As mentioned earlier, we have been field testing the system in preparation to proceeding to full volume production, needing only a final signal from the programming community that they supported our effort to introduce descrambler competition.

Unfortunately, we have yet to receive that signal from the programmers -- most particularly from either one of the two major premium movie services that are critical to the establishment of a viable, competitive programming package to offer to satellite television consumers. In short, both HBO and Showtime, the two major programmers who have professed since late 1986 that an alternative to the General Instrument descrambler monopoly was absolutely necessary, whether intended or not, have, by their actions, chosen to participate at this time in perpetuating the current descrambler monopoly that has for nearly seven years hindered industry growth.

As a result of this development, Titan Satellite Systems Corporation has been forced to reassess its business plan and to cancel our initial production run. In good faith we cannot sell a product to customers, even though that product is less expensive and more secure, if the product cannot be authorized for a competitive package of subscription services. We remain a viable entity with key technical and business personnel still supporting the project as we explore other business and market opportunities for our technology. However, without a critical mass of programming, the result of inherent and erected barriers to entry to our Videocipher compatible system, we deeply regret that at this time we do not see a viable future for us in today's C-band consumer market.

I, personally, Chuck Newby, Michael Meltzer and the rest of entire staff of the Titan Satellite Systems Corporation would like to thank all of you who provided Titan Satellite Systems Corporation with such exceptional support. We will keep you informed over the next few weeks regarding our future direction.

Sincerely,

Tom Ortolf

Tom A. Ortolf  
President  
Titan Satellite Systems Corporation

# SATELLITE BUSINESS NEWS

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## Titan Halts Decoder Assault

By Mary Hillebrand

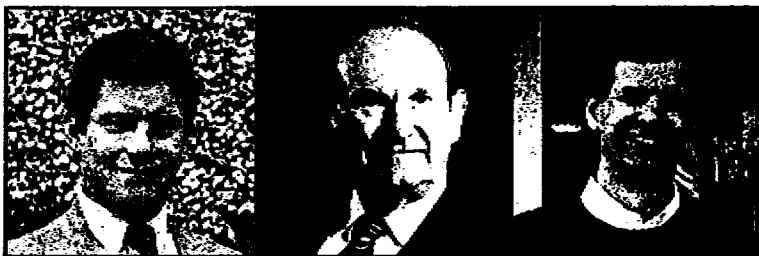
Left hanging by the two largest satellite TV programmers, Titan Satellite Systems Inc. has dropped its challenge to the industry's dominant encryption system.

The San Diego joint venture shut down Feb. 12, after talks failed with Showtime Satellite Networks Inc. about authorizing Titan's Linkabit SCS renewable

"We really needed the support of the programming community. We really needed the cooperation of at least one of the two premium programmers. But it's clear that, at this time, we're not going to be able to get any kind of con-

forces in June with Ortolf and Charlie Ergen's Houston Satellite Systems Corp. to develop the Linkabit SCS module (See *Satellite Business News*, July 1, 1992, p. 1). Ergen, who also owns Echo-

sphere Corp., did not respond to repeated inquiries. Titan Corp., which holds many of the key patents at the core of the Video-



Titan Satellite's Tom Ortolf, Titan Corp.'s Gene Ray, and HTS owner Charlie Ergen.

security module, according to Titan Satellite President Tom Ortolf. Titan launched the venture with the support of people from all segments of the industry fed up with the VideoCipher Division of Forstmann Little & Co.'s General Instrument Corp. (GI).

tractual agreement concluded," Ortolf said.

Ortolf emphasized that the Titan Satellite joint venture is still intact and the company has not completely given up hope.

Titan Corp., a San Diego defense contractor, joined

systems, made its move shortly after its five-year non-compete agreement with GI expired.

Titan shut down production, which started in limited quantity in early February, and laid off most of its staff of 12 to 15

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## Titan

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people to cut expenses while it refocuses its efforts. The list includes Vice President of Marketing Michael Meltzer, Marketing Director Scott Schultz, and Dave Woods, the engineer who developed the company's DBS Center. Some of the company's engineers went back to work for Titan Corp.

"We're really reassessing where we are. There are other opportunities, and there is still the potential to hopefully change Showtime's position," Ortolf said, adding the hold on production was primarily a financial decision to protect hefty investments by the venture's partners.

### Key Support Declined

Showtime decided technical and security issues concerning Titan's authorization plan would leave its transmissions too vulnerable, Ortolf said. Titan planned to piggyback its authorization signal on the VC II commercial data authorization stream programmers were using.

According to Showtime Satellite Executive Vice President Susan Denison, "We did let them know that, because of the interdependency with the GI technology, we were not going to move ahead at this time."

Showtime, as well as several other programmers, worried that if GI ever shut down the horizontal blanking interval, which the VC II system uses and which the Linkabit system would also use, all of Titan's decoders would lose their authorizations. Executives also said the possibility that GI will shut down the last VC II data stream, which serves commercial customers, makes authorizing the Titan module a gamble few programmers are willing to take.

GI has said it does not plan to shut off the commercial stream but only plans to convert enough commercial customers to VC RS to take away the incentive for pirates.

Although Ortolf confirmed that changes GI makes in its data stream could affect Titan decoders, he said the programmers could control that possibility by overseeing both encryption suppliers.

"In a normal kind of com-

petitive marketplace, you would manage your vendor and make sure any potential changes that could affect you are properly communicated to you before they are made," Ortolfo said. Showtime's desire to have a more 'hands-off' relationship with encryption suppliers ruled out that precautionary measure, he added.

Questions have also been raised about the security of a system that uses the same technology that is at the heart of GI's compromised VC II system. Though Denison would not comment on the Linkabit's security, sources said several other programmers have reviewed the system and found it satisfactory.

Two programmers—Turner Broadcasting System Inc. and Satellite Sports Networks—agreed in January to begin field testing the Linkabit module. Turner's CNN Headline News will continue despite Titan's shut-down, Ortolfo said, but testing by superstation WTBS-Atlanta and Satellite Sports is on hold.

Though Titan and Showtime have ended talks, Denison said her company remains open to new developments. "We're disappointed. We're always interested in seeing competition in the marketplace and ensuring the best product for the best price for our customers," she said.

## Counting HBO Out

HBO Satellite Services Inc., Titan's other hope on the programming front, initially said "no" to Titan's offer last summer, though many considered that quick response more of a strategic move than a definitive answer. The programmer outlined its position, which most executives said is clearly on GI's side, in comments submitted to the Federal Communications Commission for its inquiry into competition in the decoder market.

"The record amply demonstrates that competition exists and will continue to increase in the marketplace," HBO wrote. The programmer maintained that coming technologies such as DBS and digital compression will add to the already sufficient competition in the supply of decoder modules to the home dish market.

Ortolfo said Titan's talks with HBO were brief. "HBO's position was basically, 'We're very

busy going on to other things in the digital world, and we don't want to spend any time looking into this alternative,'" he said. Ortolfo added that a contract with Showtime might have helped Titan's position with HBO in later talks.

Though security questions took priority for most programmers, some key legal issues also loomed as a deterrent to using the new module. In what many viewed as an attempt to keep programmers in its camp, GI warned last fall that, by authorizing Titan modules through existing signals, they could violate their contracts with GI as well as their equipment and software warranties.

Titan suggested in its comments to the FCC that royalties HBO and Showtime earn for using GI's encryption system act as incentives to stick with one system. Ortolfo added there was "no question" that GI had pressured the programmers into declining the Linkabit offer.

But Denison said Showtime did not make its decision under pressure from GI. "This was a totally independent decision based on our technical experts," she explained.

## Last Puzzle Piece

Titan apparently had all the other blocks in place to create a doorway to module competition, but without the key-stone—the coveted programmer agreements—the arch would not stand.

The company displayed a prototype of its module in Baltimore last summer decoding a fixed-key VC II signal, and it announced manufacturing contracts for the modules and smart cards last fall. Titan said as late as January that it hoped to reach full-scale production by March and roll out volume shipments by the end of the first quarter.

The company also built its own DBS authorization center in San Diego, which it planned to operate for about half the estimated \$4 million per year GI now charges programmers.

With Titan at least temporarily out of the way, GI continues its control over module supply to the 3.3 million dish owners buying programming. According to Titan's FCC comments, the price of VC II modules climbed from \$180 in 1987 to

its current price of \$336. When asked to respond to Titan's action and to comment on the possibility GI could further raise the price of its modules, GI Vice President of Marketing and Communications Esther Rodriguez declined comment.

Titan's delay also leaves the door open a little wider for other companies that may be considering their own module ventures. Titan has always been open to inquiries from other companies about licensing the encryption patents it owns, Ortolfo said.

A licensing agreement, he explained, "wouldn't be a dependent factor on this development. We would con-

sider those kinds of discussions anyway because of our desire to move forward with a compression product, at least the security and encryption component of a compression system."

Though Titan no longer poses an immediate competitive threat to GI, the FCC plans to continue its inquiry. FCC Office of Plans and Policy Economist Jonathan Levy said the news would not affect the inquiry's timetable. He plans to submit a written report of the results to Congress this spring.

Meanwhile, Titan will explore a few more opportunities to persuade programmers to try its new system.

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**titan**  
COMING THIS FALL 22

Ortolfo said, "The company will not hold out forever, though. We have more than an issue of time. It's really an issue of commitment. The question is whether we have the variety of options available to us. It really becomes an issue of exploring those options because any one of them could be the break we need. But we certainly would not sit on hold for six months or a year. It would be less than six months," he said. ■

# Few Surprised by Titan's Near Demise

Titan Satellite's decision to close shop indefinitely was met with disappointment but little shock by many in the industry, who said competition was too stiff and the hurdles too large for the firm to overcome.

"It's certainly a blow to the industry," said Tee-Comm Electronics Inc. National Sales Manager Bob Dolatowski. "The programmers have made it quite clear they only want one [scrambling] system." Tee-Comm has long been at odds with GI.

Last week, many industry leaders had heard through the TVRO grapevine that Titan planned to stop production. Most said they were more surprised at the announcement's timing than the announcement itself. Titan appeared to be going full guns at the SBCA San Diego show in January with announcements that its authorization center was complete, module pre-production was beginning, and three programmers were testing the technology.

"I just had no idea that they were that close to pulling the plug," said Turner Home Satellite Inc. (THS) Vice President of Communications Alex Swan. Turner's CNN Headline News began testing the module early this month and was getting "fairly optimistic" results, said THS Executive Vice President Scott Weiss.

Many said Titan's failure to garner big programmers like HBO Satellite and Showtime Satellite was a blow from which the company could not recover. Satellite Sports Networks Vice President and General Manager Glenn Gurgio said HBO's recent comments before the Federal Communications Commission indicated Titan was fighting an uphill battle; HBO was widely viewed as siding with GI. "To have another module, you need unanimous programming. I thought they would succeed... until the HBO filing," Gurgio said.

Several people hesitated to place the onus of Titan's failure on the industry's shoulders, but many speculated its closing could be blamed, in part, on a lack of industry support. Consumer Satellite Systems Inc. co-owner Mike Schroeder said programmers, some of whom bowed to pressure from GI, did not back Titan. "I'm really surprised the programmers would want to put the future of the industry in the hands of General Instrument because General Instrument has done just a miserable job," said Schroeder, who is a former GI distributor.

Dolatowski also suspected GI pressured the programmers. "It sounded very political. GI probably had people in front of the programmers every day."

Schroeder said one of his biggest concerns now that Titan has pulled out, is the lack of competition in the decoder market. "If this industry doesn't have a module in the \$150 to \$190 price range, we're not going to be able to compete with DirecTV."

SBCA President Chuck Hewitt said, "We've always supported competition and regret that Titan was unable to make it. But the industry will have to move on."

PrimeTime 24 President Janet Foster said, "We really felt that a competitive market was better for the consumer and better for the industry. More is always better than one." Two members of Titan's loosely formed dealer advisory council said that while competition in the module market would be nice, it is not necessary for a healthy industry. Both Donald Gantt Jr., owner of Gulf Coast Electronics in Mobile, Ala., and Mike Massey, owner of Satellite City in Odessa, Texas, said new technology would force GI to lower its module price.

"I think competition is important. I think that we'll have competition in another sense," Gantt said. Massey added that "some of the problems we had because we didn't have competition are not as bad as they once were."

Said Showtime's Susan Denison, "We would be extremely disappointed if GI took advantage of this development" by increasing its price.

Dolatowski predicted GI will increase its price because nothing prevents it from doing so. "When you have a legalized monopoly, you can do what you want. It's a no-competition, no-win situation for anyone but GI."

—Jane B. Goodger